

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Octaviano Torres-Nevarez,

10 Petitioner,

11 v.

12 Ryan Thornell, et al.

13 Respondents.

No. CV-23-02100-PHX-SRB (DMF)

ORDER

14 Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254
15 on October 5, 2023 raising three grounds for relief: 1) a violation his Fourth, Fifth, Sixth,
16 Eighth, Ninth, and Fourteenth Amendment rights to due process and equal protection
17 because he was not “provided all Material involved” in his case; 2) a “[m]anifest injustice,
18 writ of coram nobis.” and; 3) a violation of his due process rights “to obtain an impartial
19 procedure in the Superior Court” because his attorney and the prosecutor violated the
20 Arizona Rules of Professional Conduct. (Doc. 11, Report and Recommendation (“R & R”)
21 at 5.) Respondents filed their Limited Answer to Petitioner’s Petition for Writ of Habeas
22 Corpus on December 5, 2023. Petitioner filed a Reply on January 2, 2024. On February 29,
23 2024, the Magistrate Judge issued her Report and Recommendation recommending that the
24 petition be dismissed with prejudice as untimely by more than ten years.

25 In her Report and Recommendation, the Magistrate Judge advised the parties that
26 they had fourteen days from the date of service of a copy of the Report and Recommendation
27 within which to file specific written objections with the Court. The time to file such
28 objections has expired and no objections to the Report and Recommendation have been filed.

The Court finds itself in agreement with the Report and Recommendation of the Magistrate Judge.

IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge as the order of this Court. (Doc. 11)

IT IS FURTHER ORDERED dismissing the Petition for Writ of Habeas Corpus with prejudice. (Doc. 1)

IT IS FURTHER ORDERED denying any Certificate of Appealability and leave to proceed in forma pauperis on appeal because dismissal is justified by a plain procedural bar and reasonable jurists would not find the procedural ruling debatable.

IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.

Dated this 21st day of March, 2024.

Susan R. Bolton
United States District Judge